

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**June 27, 2005**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; Nicholson, Associate Justice and Facey, bailiff.

**C046440      MARQUEZ v. COUNTY OF BUTTE**

Cause called. Jeffrey I. Schwarzschild argued for appellant. Brad J. Stephens, County Counsel, argued for respondent. Cause submitted.

At 10:05 a.m., the court recessed. At 10:07 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice and Butz, Associate Justice.

**C047536      THE PEOPLE v. COILTON**

Cause called. Eileen S. Kotler, court appointed counsel argued for appellant. John A. Bachman, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:21 a.m., the court recessed. At 10:26 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice and Butz, Associate Justice.

**C046453      HARVARD BUSINESS PARK v. CHUN MEI DODGE et al.**

Cause called. Jeffrey S. Kravitz and Ellen C. Dove argued for appellants. Michael A. Peritore argued for respondent. Cause submitted.

At 11:04 a.m., the court recessed. At 11:07 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice and Hull, Associate Justice.

**C046929      MATA et al. v. FLORES**

Cause called. Matthew P. Donahue argued for appellants. Charles S. Redfield argued for respondent. Cause submitted.

At 11:23 a.m., the court recessed. At 11:27 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice and Cantil-Sakauye, Associate Justice.

**C046811      THE PEOPLE v. FOWLER**

Cause called. Richard Doctoroff, court appointed counsel, argued for appellant. John A. Bachman, Deputy Attorney General, argued for respondent. Cause submitted.

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**June 27, 2005, continued**

At 11:36 a.m., the court recessed. At 2:03 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice and Butz, Associate Justice.

**C047221      PISARZ v. PISARZ**

Cause called. Robert K. Reeve argued for appellant. Stephen R. Zalkind argued for respondent. Cause submitted.

At 2:35 p.m., the court recessed. At 2:38 p.m., the court reconvened with Scotland, Presiding Justice; Morrison, Associate Justice and Butz, Associate Justice.

**C039012      DOUMIT v. BOARD OF PHARMACY**

Cause called. Robin K. Perkins argued for appellant. Alica Fowler, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:13 p.m., the court recessed. At 3:16 p.m., the court reconvened with Davis, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C048076      SMITH, as Administrator, etc. v. BRUNEY et al. and SAN FRANCISCO  
SOCIETY FOR THE PREVENTION OF CRUELTY OF ANIMALS**

Cause called. John F. Granucci argued for appellant. Daniel A. Conrad argued for respondents. Cause submitted.

At 3:44 p.m., the court recessed. At 3:49 p.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice and Cantil-Sakauye, Associate Justice.

**C043539      DELL MERK, INC v. FRANZIA and PACIFIC STATE BANK  
C046171      DELL MERK, INC v. FRANZIA and PACIFIC STATE BANK**

Cause called. Arnold J. Wolf argued for appellant. Cassandra M. Ferrannini argued for respondent. Cause submitted.

At 4:20 p.m., the court recessed until 9:30 a.m., Monday, July 18, 2005.

**C045398      JONES v. DEPARTMENT OF GENERAL SERVICES**

**(Not for Publication)**

The judgment is affirmed. Costs on appeal are awarded to the Department. (Cal. Rules of Court, rule 27(a).)

NICHOLSON, J.

We Concur:    Blease, Acting P.J.  
                     Robie, J.



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**June 28, 2005, continued**

- C047432      THE PEOPLE v. PERSON      (Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We Concur: Nicholson, Acting P.J.  
Hull, J.
- C048216      THE PEOPLE v. TINDLE      (Not for Publication)**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur: Morrison, Acting P.J.  
Butz, J.
- C048262      THE PEOPLE v. HERNANDEZ, JR.      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, Acting P.J.  
We Concur: Butz, J.  
Cantil-Sakauye, J.
- C046623      SHEPHARD et al. v. BEAR VALLEY SKI COMPANY      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Hull, J.
- C047370      PETERSON v. GRANITE BAY GOLF CLUB, INC.      (Not for Publication)**  
The judgment is affirmed...  
SCOTLAND, P.J.  
We Concur: Sims, J.  
Robie, J.
- C047634      COUNTY OF PLACER v. THE SUPERIOR COURT OF PLACER COUNTY and STONER      (CERTIFIED FOR PUBLICATION)**  
The petition for a peremptory writ of mandate is denied...  
SCOTLAND, P.J.  
We Concur: Sims, J.  
Robie, J.
- C046809      BERG v. DAVI  
BY THE COURT:**  
Appellant's petition for rehearing is denied.  
SIMS, Acting P.J.

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**June 29, 2005**

- C043001      THE PEOPLE v. WEBB      (Not for Publication)**  
The parole fine is stricken and the judgment is otherwise affirmed. The trial court shall prepare and forward to the Department of Corrections a new abstract of judgment.  
MORRISON, J.  
I concur: Raye, Acting P.J.  
I concur except as to part VI, in which I concur in the result.  
HULL, J.
- C043606      THE PEOPLE v. SANCHEZ      (Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Sims, Acting P.J.  
Morrison, J.
- C044621      THE PEOPLE v. GOMEZ      (Not for Publication)**  
The judgment (order) dismissing the information is reversed.  
HULL, J.  
We Concur: Raye, Acting P.J.  
Robie, J.
- C045429      THE PEOPLE v. SHELMIER      (Certified for Partial Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Davis, J.  
Raye, J.
- C045830      THE PEOPLE v. EVANS      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We Concur: Blease, Acting P.J.  
Nicholson, J.
- C047167      THE PEOPLE v. WILEY      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We Concur: Scotland, P.J.  
Robie, J.

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**The Minutes**

**June 29, 2005, continued**

- C047335      THE PEOPLE v. MOCTEZUMA      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, J.  
We Concur: Scotland, P.J.  
Robie, J.
- C047467      THE PEOPLE v. HAWKINS      (Not for Publication)**  
The judgment is modified...  
... As modified, the judgment is affirmed.  
RAYE, J.  
We Concur: Scotland, P.J.  
Hull, J.
- C047670      THE PEOPLE v. HOUSTON      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Raye, J.  
Hull, J.
- C047862      THE PEOPLE v. MOSBY      (Not for Publication)**  
The judgment entered against defendant Mosby is affirmed.  
SCOTLAND, P.J.  
We Concur: Raye, J.  
Hull, J.
- C047902      THE PEOPLE v. BROWN      (Not for Publication)**  
The judgment entered against defendant Brown is affirmed.  
SCOTLAND, P.J.  
We Concur: Raye, J.  
Hull, J.
- C048050      THE PEOPLE v. MARTIN      (Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Raye, J.  
Hull, J.
- C048063      THE PEOPLE v. BADELL      (Not for Publication)**  
The trial court shall prepare amended minutes of the sentencing hearing,  
as reflected in the opinion. The judgment is otherwise affirmed.  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Hull, J.

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**June 29, 2005, continued**

**C045804      HOHOL et al. v. TRANSTAR INDUSTRIES, INC.**

**(Not for Publication)**

The judgment on the first cause of action for breach of contract is reversed. The award of punitive damages is also reversed. In all other respects, the judgment is affirmed...

HULL, J.

We Concur:    Blease, Acting P.J.  
                  Nicholson, J.

**C046539      PYLE, JR. v. HIEBERT**

**(Not for Publication)**

The judgment is affirmed. Appellant shall pay respondent's costs on appeal. (Cal. Rules of Court, rule 27(a).)

MORRISON, Acting P.J.

I concur:        Hull, J.

I concur in the result:

Robie, J.

**C047422      In re ELIJAH L.; THE PEOPLE v. ELIJAH L.**

**C046517**

**(Not for Publication)**

The judgment (orders of the juvenile courts) is affirmed.

SIMS, Acting P.J.

We Concur:    Nicholson, J.

Cantil-Sakauye, J.

**C043894      THE PEOPLE v. TAYLOR**

BY THE COURT:

Appellant's petition for rehearing is granted. The decision filed on June 15, 2005, is vacated...

SIMS, Acting P.J.

**C046885      HARDWICK v. HARDWICK**

BY THE COURT:

Appellant's requested to publish the opinion filed on June 6, 2005, is denied.

BLEASE, Acting P.J.

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**June 30, 2005**

- C041714      THE PEOPLE v. HILL et al.      (Not for Publication)**  
The judgments are affirmed. The trial court is directed to prepare amended abstracts of judgment...  
BUTZ, J.  
We Concur:    Blease, Acting P.J.  
                 Davis, J.
- C046761      THE PEOPLE v. KEANE      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, Acting P.J.  
We Concur:    Hull, J.  
                 Cantil-Sakauye, J.
- C046944      THE PEOPLE v. BOYCE      (Not for Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We Concur:    Sims, Acting P.J.  
                 Cantil-Sakauye, J.
- C047869      THE PEOPLE v. SCOTT      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We Concur:    Raye, J.  
                 Hull, J.
- C048049      THE PEOPLE v. SAYLOR      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We Concur:    Morrison, J.  
                 Butz, J.
- C048178      THE PEOPLE v. DEVLIN      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We Concur:    Blease, Acting P.J.  
                 Butz, J.
- C048208      THE PEOPLE v. RONDANINI      (Not for Publication)**  
The judgment is affirmed.  
DAVIS, Acting P.J.  
We Concur:    Raye, J.  
                 Hull, J.

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**June 30, 2005, continued**

- C048261      THE PEOPLE v. RUIZ      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We Concur:    Blease, Acting P.J.  
                 Butz, J.
- C040445      BROOKS v. STEARNS      (Not for Publication)**  
The order denying Stearn's motions to vacate the order for attorney fees is affirmed. Brooks is awarded her costs on appeal. (Cal. Rules of Court, rule 27(a).)  
BLEASE, J.  
We Concur:    Scotland, P.J.  
                 Raye, J.
- C046005      CITY OF PLEASANTON v. CITY AND COUNTY OF SAN FRANCISCO et al.      (Not for Publication)**  
The judgment is affirmed. Pleasanton shall pay San Francisco's costs on appeal. (Cal. Rules of Court, Rule 27(a).)  
MORRISON, J.  
We Concur:    Sims, Acting P.J.  
                 Butz, J.
- C046897      FLEETWOOD RETAIL CORPORATION OF CALIFORNIA v. DENISON et al.**  
The judgment is affirmed in part and reversed in part...  
ROBIE, J.  
We Concur:    Nicholson, Acting P.J.  
                 Raye, J.
- C047594      STARR v. WOOLF et al.      (Not for Publication)**  
The judgment of dismissal is affirmed.  
SCOTLAND, P.J.  
We Concur:    Blease, J.  
                 Cantil-Sakauye, J.
- C047605      ANDERSON FIRST COALITION et al. v. CITY OF ANDERSON et al. and FHK COMPANIES, INC., et al.      (CERTIFIED FOR PUBLICATION)**  
We reverse the judgment to the extent it denied the Coalition's petition for writ of mandate... The Coalition is awarded its costs on appeal.  
DAVIS, Acting P.J.  
We Concur:    Butz, J.  
                 Cantil-Sakauye, J.

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**The Minutes**

**June 30, 2005, continued**

**C043156      In re BRENT F.; THE PEOPLE v. BRENT F.      (CERTIFIED FOR PUBLICATION)**  
The order committing the minor to the CYA pursuant to section 778 is reversed, and the matter is remanded to the juvenile court for further proceedings consistent with this opinion.  
SCOTLAND, P.J.  
We Concur: Morrison, J.  
Butz, J.

**C048743      QUAIL CREEK VINEYARDS et al. v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and McCARTY et al.      (Not for Publication)**  
**C048755      QUAIL CREEK VINEYARDS et al. v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and McCARTY      (Not for Publication)**  
Let a peremptory writ of mandate issue directing the court to vacate its stay in its entirety...  
DAVIS, J.  
We Concur: Sims, Acting P.J.  
Cantil-Sakauye, J.

**July 1, 2005**

**C045455      THE PEOPLE v. COE      (Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We Concur: Blease, Acting P.J.  
Nicholson, J.

**C047819      THE PEOPLE v. CARD      (Not for Publication)**  
The judgment is affirmed.  
BUTZ, J.  
We Concur: Morrison, Acting P.J.  
Cantil-Sakauye, J.

**C047474      HERRICK et al. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and RICE, JR. et al.      (Not for Publication)**  
The petition for writ of mandate is granted...  
NICHOLSON, J.  
We Concur: SIMS, Acting P.J.  
Morrison, J.